

molecular weight polyolefin of Takiguchi, et al. for the polyethylene film of Dauber, et al. as the Examiner asserts. In particular, Applicants argued that (1) the filter in Takiguchi, et al. does not hold an absorbent layer and is therefore a different type of filter from that disclosed in Dauber, et al. and (2) Takiguchi, et al. suggests a multi-layer structure in which both layers are formed of the same type of material.

With respect to the first argument, the Examiner asserts that the difference in filter type does not preclude the Examiner from combining Takiguchi, et al. and Dauber, et al. to arrive at the present invention. In other words, although not specifically stated, the Examiner seems to be taking the position that Takiguchi, et al. is analogous art to that of the present invention so that it is appropriate for him to apply this reference to the claims.

With respect to the second argument, the Examiner notes that although Takiguchi, et al. discloses that both layers "should" be formed of the same type of material, the reference does not state that they "must" be the same material.

Finally, the Examiner states that as a secondary reference, there is no need for Takiguchi, et al. to address the issue of whether the porous layers are formed from different types of materials because the Examiner contends that this teaching is already present in Dauber, et al.

As discussed below, Applicants submit that the Examiner has not established a *prima facie* case of obviousness. Contrary to the Examiner's assertion, the entire teachings of the secondary reference, Takiguchi, et al., must be considered in the obviousness determination. In that regard, as noted above, Takiguchi, et al. discloses that the two layers of the filters should be made of the same material. Although it is true that Dauber, et al. discloses a filter material with two different layers, the above teaching in Takiguchi, et al. that it is preferable to make the layers out of the same material cannot be ignored. Since the Examiner has included Takiguchi, et al. in

the obviousness rejection, Applicants respectfully submit that a person of ordinary skill in the art, considering this teaching of Takiguchi, et al., would not modify the filter of Dauber, et al. in the manner proposed where the resulting filter includes layers made of two separate materials. In other words, Applicants submit that the Examiner is cherry picking selective teachings out of Takiguchi, et al. in an effort to arrive at the present invention which is classic (impermissible) hindsight reconstruction. As such, Applicants submit that the Examiner's obviousness determination is unsupported.

Furthermore, even if one were to assume *arguendo* that the Examiner has established a *prima facie* case of obviousness, Applicants submit that the present invention provides unexpected and superior results over the prior art. More specifically, as demonstrated in the application, the laminates of the claimed invention (encompassed by Examples 1-3) exhibit a higher collection efficiency and yet a lower pressure drop than the conventional porous film of the comparative example 1. These advantages would not have been expected by one of ordinary skill in the art. As is evident from the Office Action, the Examiner has failed to consider these important and unexpected advantages which are sufficient to overcome any *prima facie* case of obviousness.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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Date: February 4, 2005

CERTIFICATION OF FACSIMILE TRANSMISSION

Sir:

I hereby certify that the above identified correspondence is being facsimile transmitted to Examiner Hai VO at the Patent and Trademark Office on February 4, 2005 at (703) 872-9306.

Respectfully submitted,



Brian W. Hannon